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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,345

02/17/2004

Walter V. Klemp

AHP-P01880US2

1992

23770* 7590 04/05/2007

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT

PAPER NUMBER

3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/780,345	Applicant(s) KLEMP ET AL.	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/22/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 39-70 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 39-41, 43-46, 48-55, 58, 60-66, 68, and 70 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. WO98/25999 of which the English version, EP 0947549 is used as reference.

Regarding claims 39,40,45, 53, 54, 65, and 66, Suzuki discloses an absorbent article comprising a topsheet, backsheet, and an absorbent core disposed between (paragraph 0137 and Figure 23) where the absorbent core is constructed of an absorbent composite including a plurality of absorbent layers of hydratable fine fibers in the form of microfibril obtained from cellulose or a derivative thereof, and super absorbent polymer particles bonded together by the hydratable fibers (Abstract, 0020, 0022). The absorbent core comprises a continuous nonwoven substrate supporting the absorbent

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layers and the layers are spaced apart from one another to provide exposed nonwoven surface sections of the nonwoven substrate between absorbent layers. Suzuki discloses the absorbent layer is coated on the substrate (paragraphs 0027-0028, 0129, 0127, Figures 11-12 and 23). The exposed nonwoven areas provide wicking zones by diffusing the discharged fluid to the absorbent layers (paragraph 0023). Suzuki discloses the backsheet provides a nonwoven substrate supporting the absorbent layers which are elongated segments having a rounded cross section and the backsheet extends around the contoured layers, forming channel structures beneath the absorbent layers (Figures 39-47, paragraphs 0149-0157).

As to claims 41 and 55, Suzuki discloses the backsheet is formed from the absorbent composite (paragraphs 0035-0038).

As to claims 43 and 68, Suzuki discloses the SAP are water-swelling particles provided in concentrations in the claimed range (paragraph 0242).

As to claims 44 and 58, Suzuki discloses the absorbent core includes a prefabricated sheet of the absorbent composite (Figure 15, paragraph 0128).

As to claim 46, Suzuki discloses the absorbent layers are laterally spaced elongated segments – see Figure 11, element and Figure 23, elements 501-503.

As to claims 48-51, 60-63, and 70, Suzuki discloses the absorbent layers arranged in a dotted pattern having a width and distance between dotted concentrations as claimed (Figures, 43, 44, 47, and paragraphs 0039-0041, 0152-0155).

As to claims 52 and 64, Suzuki discloses varying the thickness of the absorbent layers with wider portions in the crotch region (0024, 0201-0203; Figure 26 and 0139).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 42, 47, 56, 57, 59, 67, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. WO98/25999 of which the English version, EP 0947549 is used as reference.

As to claims 42, 56, and 67, Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki discloses the polymeric materials are adapted to swell such as in Figure (paragraph 0035-0038). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create an liquid impervious material, since Suzuki teaches creating a liquid barrier due to the swelling of the absorbent particles.

As to claims 47, 59, and 69, Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the swell rate of the superabsorbent materials. Suzuki discloses a water-swellaable, water-insoluble polymeric material that provides a substantially impervious layer (paragraphs 0035-00041). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a low-crosslink, low gel strength SAP, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

As to claim 57, Suzuki discloses the SAP are water-swellaable particles provided in concentrations in the claimed range (paragraph 0242).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jacqueline F Stephens
Primary Examiner
Art Unit 3761

February 20, 2007